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US Army Corps of Engineers®

PUBLIC NOTICE

APPLICATION TO ESTABLISH
A REGIONAL GENERAL PERMIT (RGP)

LOS ANGELES DISTRICT

Public Notice/Application No.: 200400147-AJS
Comment Period: August 9, 2004 through September 8, 2004
Project Manager: Antal Szijj (805) 585-2147 antal.j.szijj@usace.army.mil

Applicant
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Contact
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Location
in Santa Clara River near Oxnard, Ventura County, California (see map, figure 1)
(at: lat:34-17-26.4840 lon:119-7-30.4320)

Activity
To conduct routine maintenance activities at the Vern Freeman Diversion Facility (see attached drawings). For more information see page 3 of this notice.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344). Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Branch - Ventura Field Office
ATTN: CESPL-CO-RN-200400147-AJS
2151 Alessandro Drive, Suite 255
Ventura, California 93001

Alternatively, comments can be sent electronically to: antal.j.szijj@usace.army.mil

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality- The applicant has obtained water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. The Section 401 Certification includes conditions to minimize potential impacts to water quality that might result from these maintenance activities, which would be incorporated by reference into the Corps' RGP.

Coastal Zone Management- For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to issuing the Corps authorization for the project, the applicant must obtain concurrence from the California Coastal Commission that the project is consistent with the State's Coastal Zone Management Plan. This project is located outside the coastal zone and preliminary review indicates that it will not affect coastal zone resources. A final determination of whether this project affects coastal zone resources will be made by the Corps, in consultation with the California Coastal Commission, after review of the comments received on this Public Notice.

Cultural Resources- The latest version of the National Register of Historic Places has been consulted and this site is not listed. This review constitutes the extent of cultural resources investigations by the District Engineer, and he is otherwise unaware of the presence of such resources.

Endangered Species- The Corps has determined that the proposed project may affect three federally listed endangered species, the least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*) and the southern steelhead (*Oncorhynchus mykiss*). Although the flycatcher has not been recorded at the project site, it has been recently found upstream in the vicinity of the fish hatchery in Fillmore. Given the presence of potentially suitable habitat near the project site and the long-term maintenance

needs at the facility, the Corps has determined future maintenance operations may affect flycatcher should they occupy the project vicinity.

NOAA Fisheries has provided concurrence that the proposed maintenance activities, with the inclusion of specific avoidance measures, would not adversely affect steelhead. These avoidance measures would be addressed through special conditions in the proposed RGP. Part of the proposed maintenance described below includes maintaining a low-flow channel extending downstream of the fish ladder to facilitate fish passage, thereby benefiting the species.

The Corps has submitted a request to the U.S. Fish & Wildlife Service for consultation pursuant to Section 7 of the Endangered Species Act to address potential impacts to the vireo and flycatcher.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

The proposed action involves routine and foreseeable maintenance activities associated with the Vern Freeman Diversion Facility, including the following:

a) *Maintenance of a 15-foot-wide strip on either side of the dam to clear vegetation and debris* (figures 2 & 3). This activity is required by the Bureau of Reclamation in order to prevent damage to the dam structure and allow for visual inspection. This work is expected to be conducted annually or bi-annually using hand tools, a D6 Caterpillar bulldozer and a backhoe tractor. Currently, the District has a need to clear approximately 0.3 acre of vegetation adjacent to the dam and within the 15-foot zone.

b) *Clearing vegetation and accumulated sediments from the vicinity of the diversion canal and fish ladder* (figure 4). This work is necessary to ensure flows upstream of the diversion facility are directed towards the diversion canal and fish ladder. Excessive build up of sediments and vegetation has the potential to redirect flows away from these facilities, thereby inhibiting the ability to both divert flows and provide fish passage. The work would be conducted on an as-needed basis using hand tools, a D6 Caterpillar bulldozer and a backhoe tractor. Currently, the District has a need to clear an "island" of accumulated sediments and vegetation of approximately 0.25-acre in size adjacent to the diversion structure inlet.

c) *General equipment repair and associated temporary flow diversion* (figures 5-6). Repairs or maintenance are occasionally required for equipment within the diversion facilities. This may require equipment access from either the upstream or downstream side. For access from the upstream side, a temporary diversion berm would be constructed to direct flows away from the diversion structure and over the crest of the dam. The berm would be approximately 500 feet long and 2-4 feet high and would be formed by pushing streambed material with a dozer. Once necessary repairs or maintenance is completed, the berm would be breached and flows would be redirected back to the diversion structure. The work would be conducted on an as-needed basis using a D6 Caterpillar bulldozer and a skip loader. Downstream access would involve minor grading at the outlet of the flushing channel to facilitate equipment access. There are no current needs to conduct any equipment repair requiring flow diversions or other activities requiring a Corps permit.

d) *Repair of riprap bank stabilization* (figure 7). In the event riprap bank protection appurtenant to the dam is damaged by a large flood event, repairs would be undertaken to restore such bank protection.

The amount and extent of work required, as well as the urgency, would vary depending on the extent of the damage. In general, repairs would involve backfilling and regrading of eroded embankments and replacement of riprap and/or grouting. Equipment used would also vary, but could include a backhoe or bulldozer with a sheep's foot compactor, graders, excavators, scrapers and a water truck. It is possible that limitations on the extent of such repairs eligible for authorization with the proposed RGP could be imposed to ensure impacts are minimal. Currently there is no need to conduct any bank stabilization repairs.

e) *Maintenance of a low-flow channel extending downstream of the entrance to the fish ladder* (figure 8). This was a requirement of the original Corps authorization for the construction of the dam in order to facilitate fish passage through the fish ladder. The downstream reach extending from the entrance to the fish ladder is generally devoid of vegetation or only sparsely vegetated. Work would be conducted on an as-needed basis and involve creating a low-flow channel not more than 600 feet long using a bulldozer. Based on past experience this would be required every 2-5 years. Currently the low flow channel is in an appropriate location and no maintenance is needed.

Additional Project Information

The Freeman Diversion Facility was constructed in 1991, to provide water for groundwater recharge and help mitigate the effects of saltwater intrusion in the Oxnard Plain. The facility consists of a low, concrete dam approximately 20 feet high, which spans the width of the Santa Clara River. The diversion inlet and fish ladder are located on the southerly end of the diversion dam. Surface flows are diverted into a system of canals, which in turn deliver the water to percolation basins. Flood flows in excess of the facility's capacity to divert spill over the diversion dam and continue downstream.

The diversion facility causes surface flows to pond behind dam, which in turn has resulted in the development of extensive stands of riparian habitat dominated by willow (*Salix* sp.) Existing habitat surrounding the diversion facility includes areas of shallow, open-water habitat with dense stands of willow-riparian habitat behind

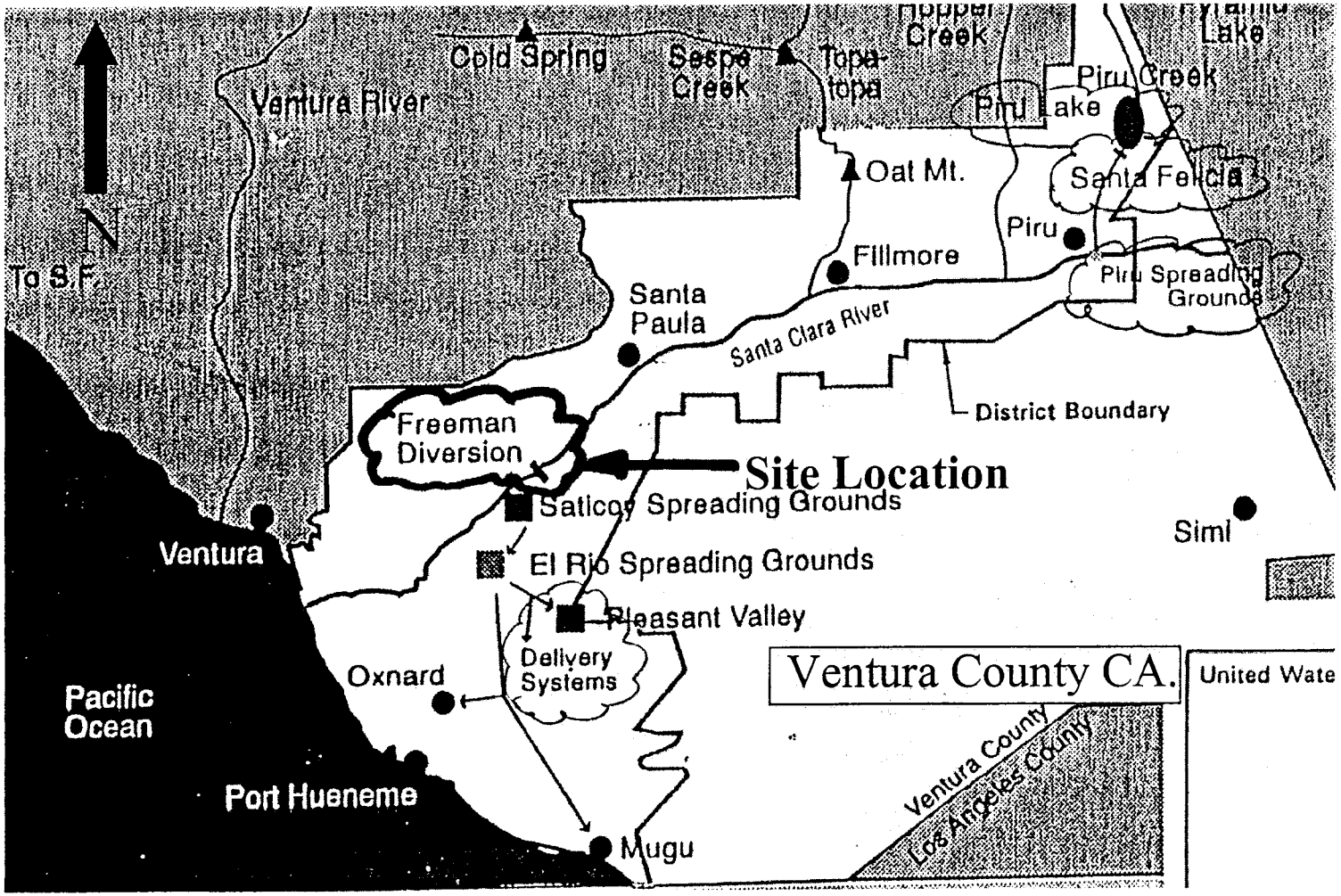
The proposed RGP would authorize the routine maintenance activities described above for a period of five years. Notification to the Corps would be required prior to conducting maintenance work under the proposed RGP. The RGP would be subject to renewal after the five-year period based on an assessment of its effectiveness and verification that the maintenance activities do not result in more than minimal effects on the aquatic environment, either individually or cumulatively.

The overall project purpose of the proposed maintenance activities is to allow continued operation of the diversion facility under its existing authority. The basic project purpose is dam maintenance, which is considered water dependent. The maintenance activities proposed are not intended to alter the established diversion operations, but rather to ensure the facility is functioning as designed and to meet safety requirements. No maintenance work that would change the character, size, or extent of structural features associated with the diversion facility would be authorized under this RGP.

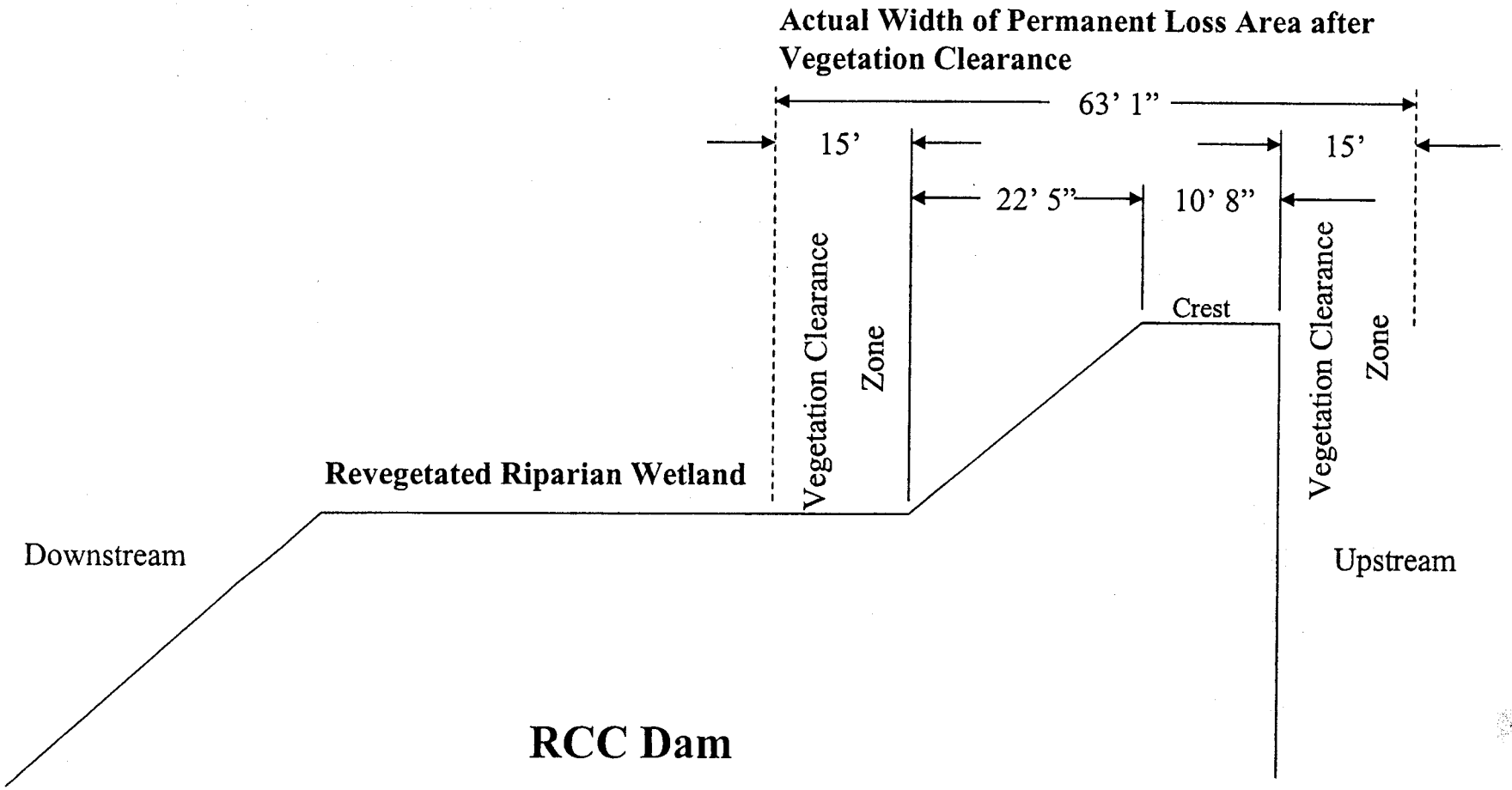
Proposed Special Conditions

It is anticipated that special conditions would be included in the RGP avoid and minimize take of federally listed threatened and endangered species, pending the outcome of the consultation process with the U.S. Fish & Wildlife Service.

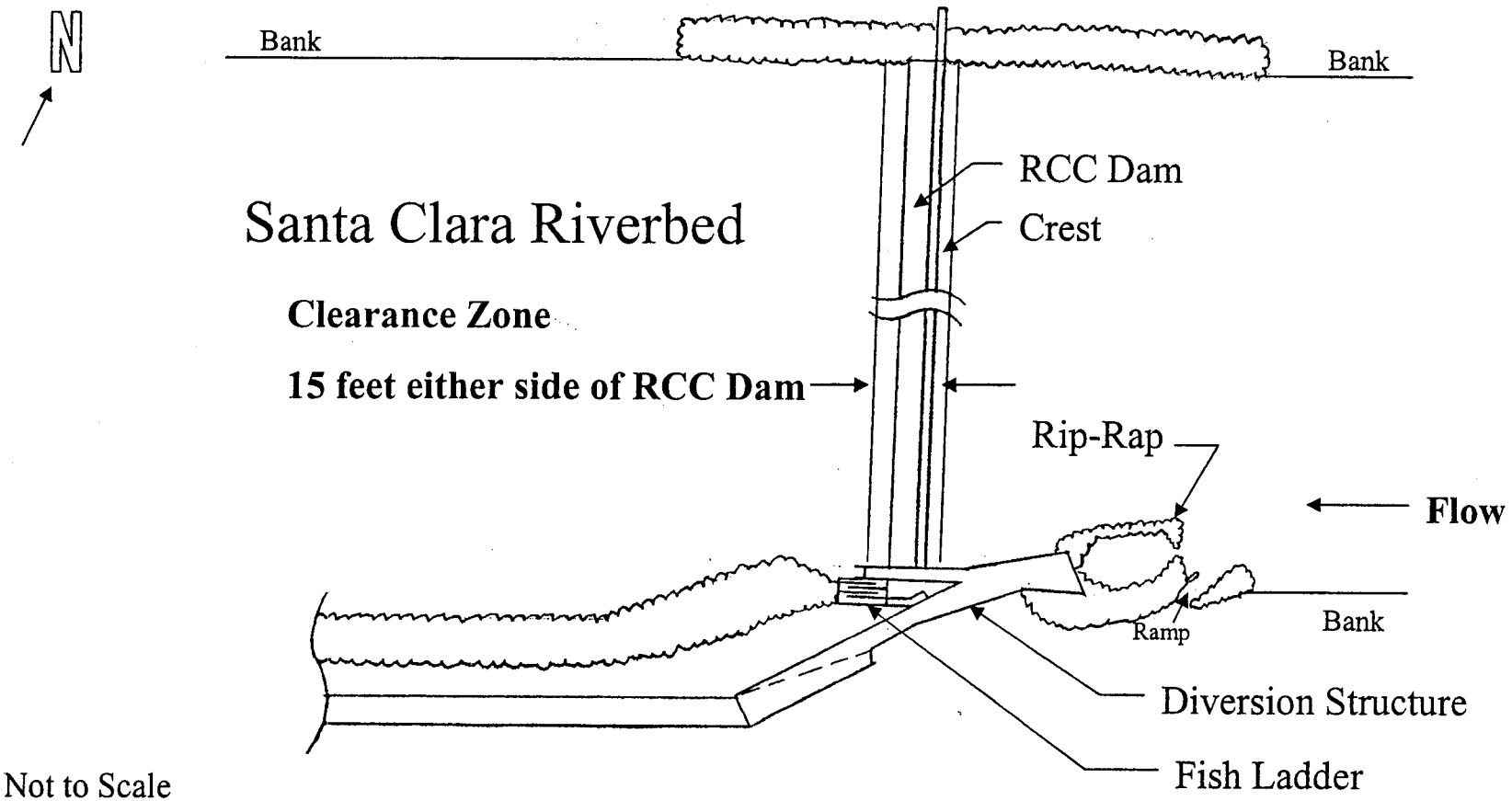
For additional information please call Antal Szijj of my staff at (805) 585-2147. This public notice is issued by the Chief, Regulatory Branch.



Purpose: General Maintenance Procedures	Figure 1 Vicinity Map United Water Conservation Dist. 106 n. 8th street Santa Paula, CA 93060	Regional General Permit (RGP) In: Santa Clara River At: Freeman Diversion County of: Ventura Application by: UWCD Sheet 6 of 14 Date 10-20-03

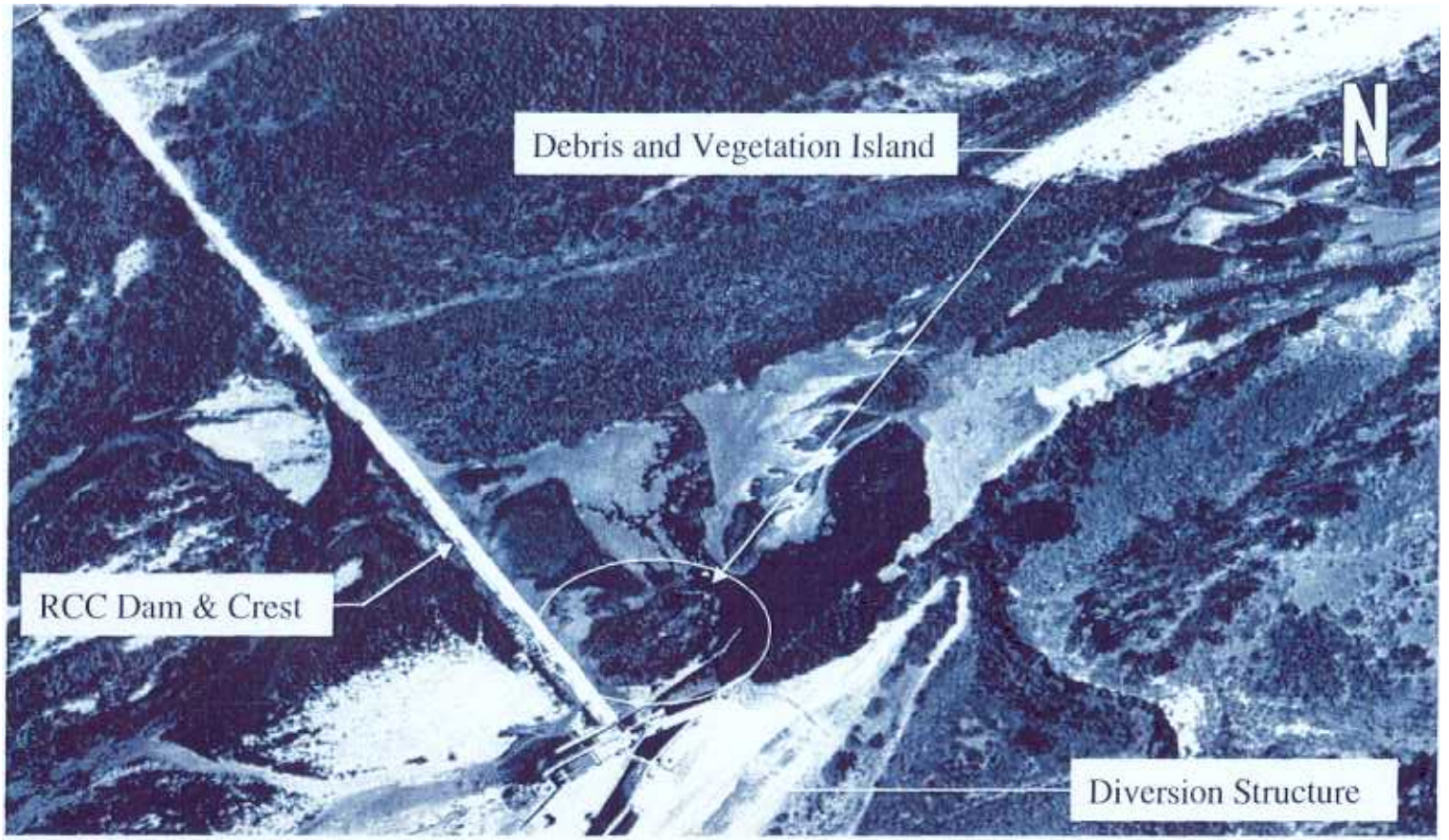


Purpose: Proposed mitigation to replace permanent loss	FIGURE 2 **Cross Section – RCC Dam** United Water Conservation Dist. 106 n. 8th street Santa Paula, CA 93060	(RGP) Mitigation Requirement In: Santa Clara River. At: Freeman Diversion County of: Ventura Application by: UWCD Sheet 8 of 14 Date 10-20-03



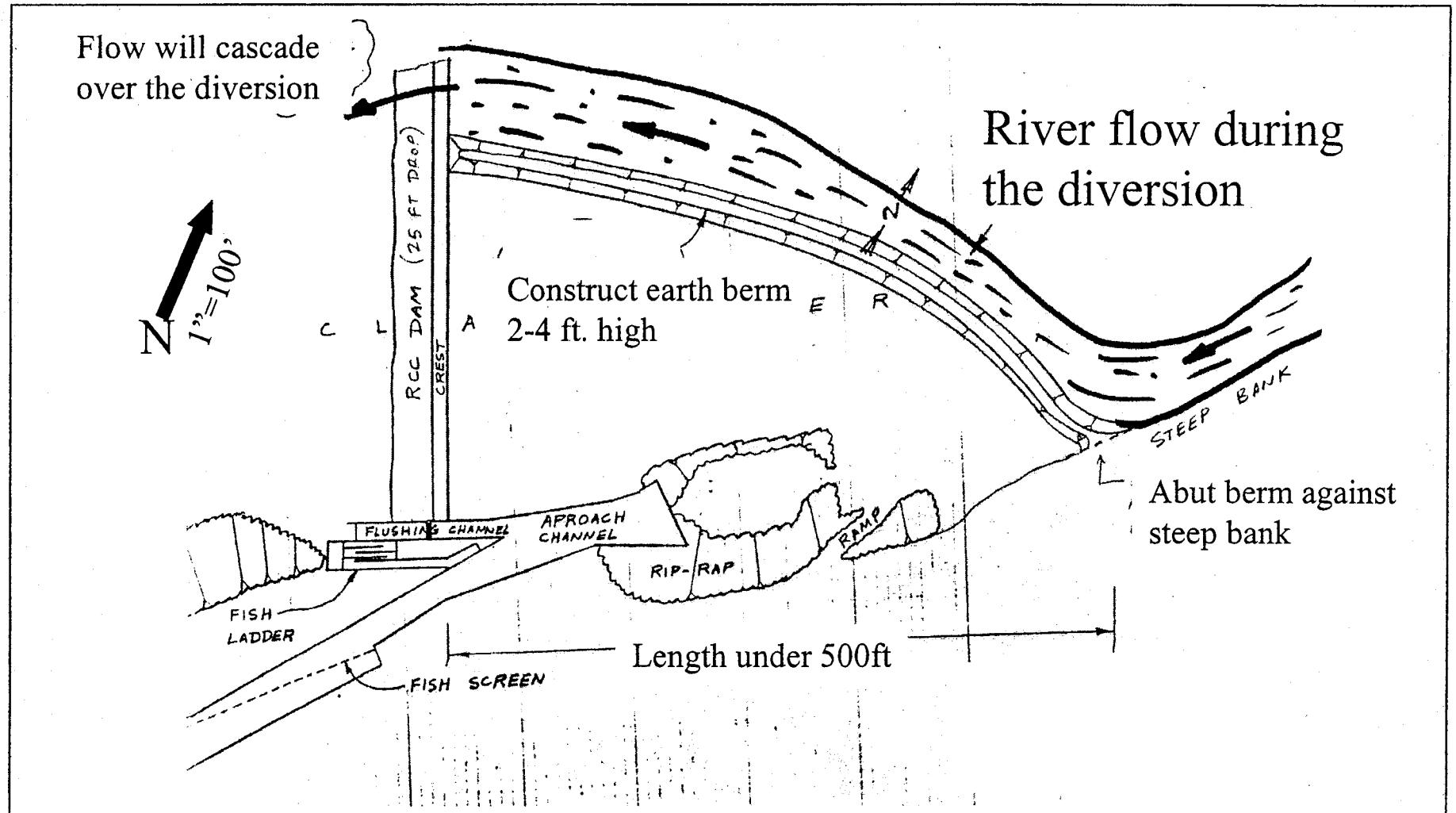
Not to Scale

Purpose: Prevent damage to RCC dam and allow for inspections.	FIGURE 3 Plan View United Water Conservation Dist. 106 n. 8th street Santa Paula, CA 93060	(RGP) Clear Vegetation from RCC dam and 15 ft zone. In: Santa Clara River. At: Freeman Diversion County of: Ventura Application by: UWCD Sheet 9 of 14 Date 10-20-03

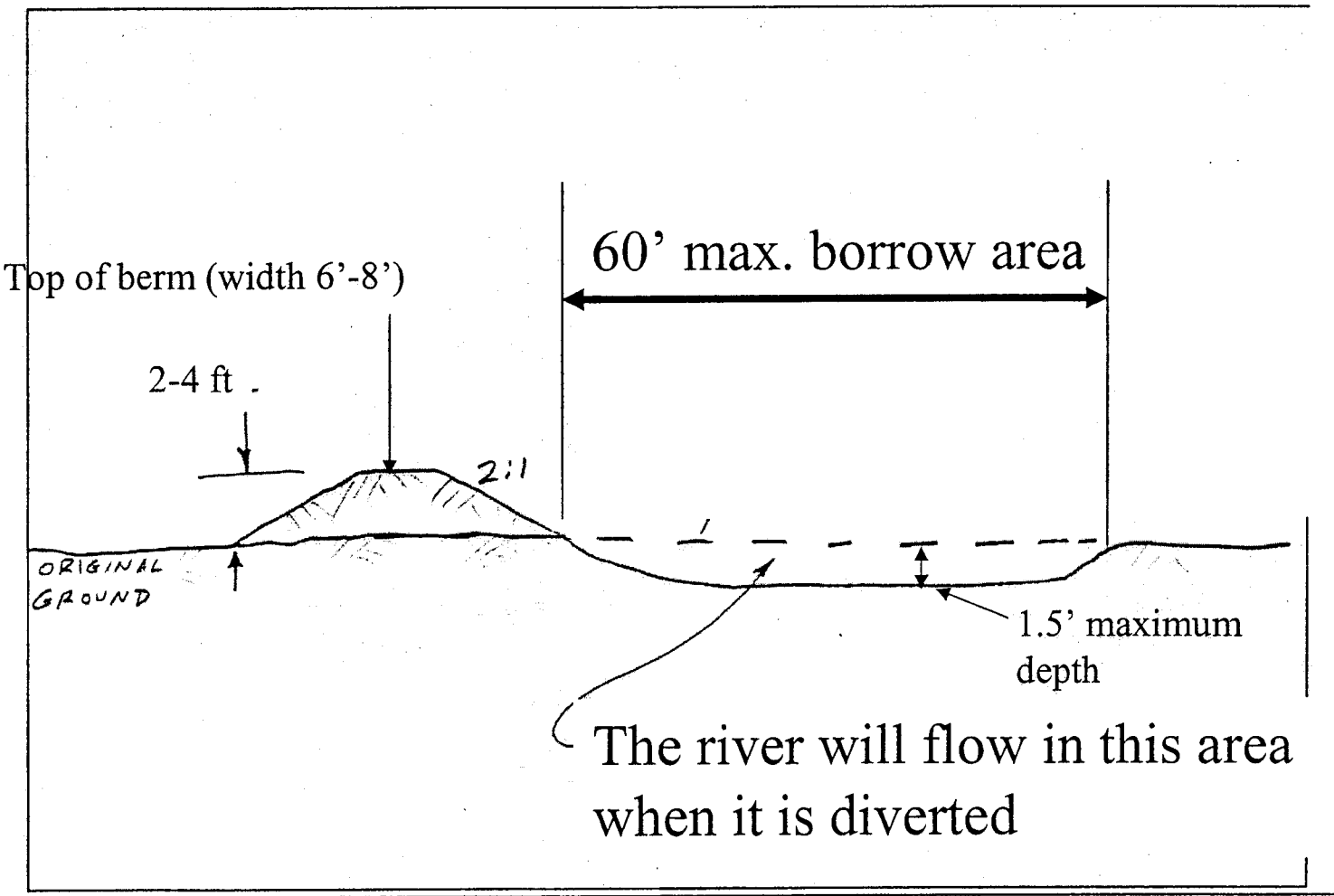


Aerial View

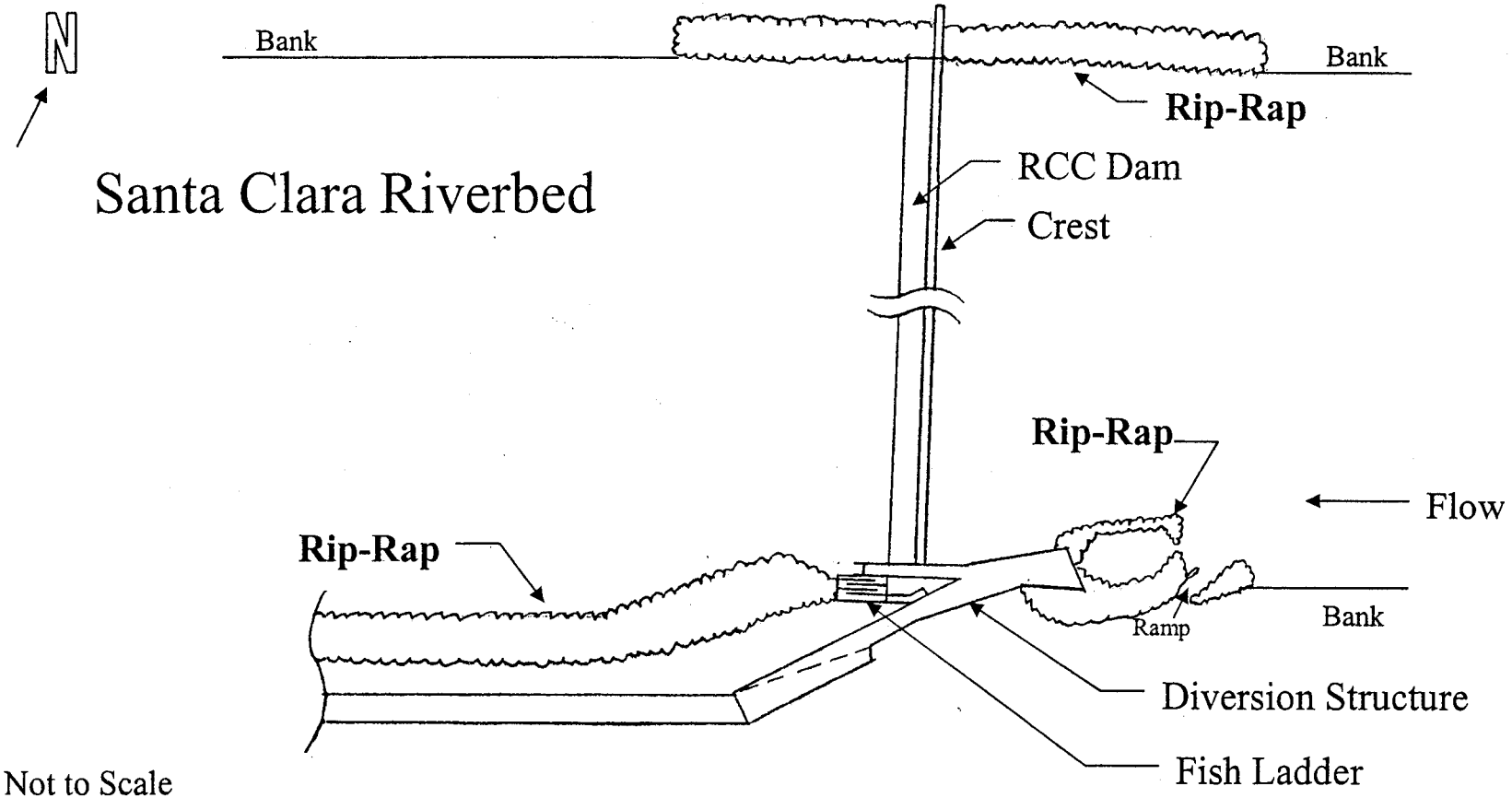
Purpose: Clearing of obstructions that may divert stream channel	FIGURE 4 Aerial – Plan View **United Water Conservation Dist.** **106 n. 8th street** **Santa Paula, CA 93060**	(RGP) Clear vegetation island In: Santa Clara River. At: Freeman Diversion County of: Ventura Application by: UWCD Sheet 10 of 14 Date 10-20-03



Purpose: Mechanical/Electrical Equipment Repair	FIGURE 5 Plan View United Water Conservation Dist. 106 n. 8th street Santa Paula, CA 93060	Proposed temporary earthen berm diversion. In: Santa Clara River. At: Freeman Diversion County of: Ventura Application by: UWCD Sheet 12 of 14 Date 10-20-03

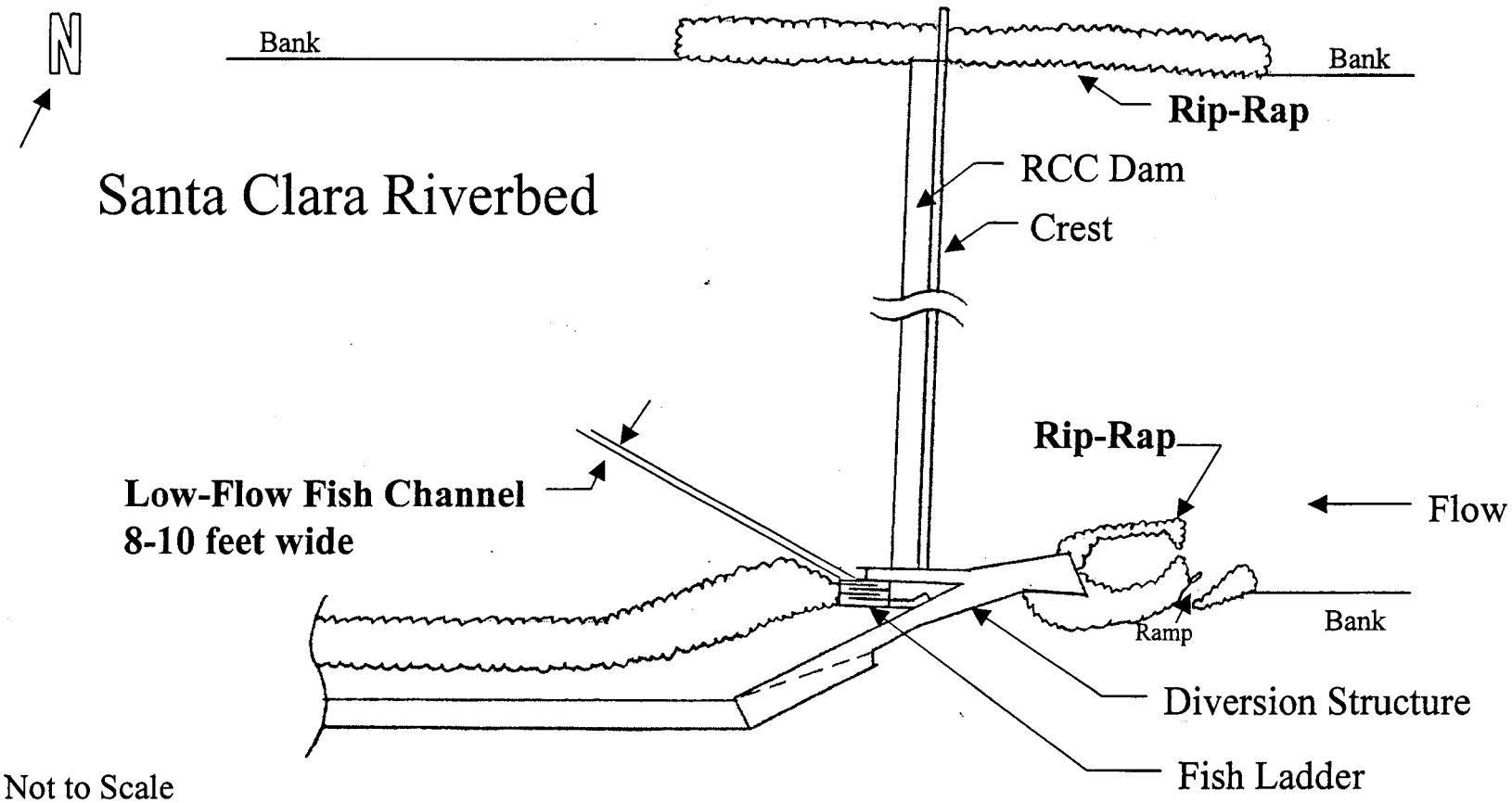


Purpose: Mechanical/Electrical Equipment Repair	FIGURE 6 Berm Cross Section United Water Conservation Dist. 106 n. 8th street Santa Paula, CA 93060	Proposed temporary earthen berm diversion. In: Santa Clara River. At: Freeman Diversion County of: Ventura Application by: UWCD Sheet 13 of 14 Date 10-20-03



Not to Scale

Purpose: Rip-Rap Repair to Stabilize Banks of Diversion Dam Area	FIGURE 7 Plan View United Water Conservation Dist. 106 n. 8th street Santa Paula, CA 93060	(RGP) Rip-Rap Repair In: Santa Clara River. At: Freeman Diversion County of: Ventura Application by: UWCD Sheet 14 of 14 Date 10-20-03



Purpose: Allow direct steelhead migration to fish ladder	FIGURE 8 Plan View United Water Conservation Dist. 106 n. 8th street Santa Paula, CA 93060	(RGP) Low-Flow Fish Channel In: Santa Clara River. At: Freeman Diversion County of: Ventura Application by: UWCD Sheet 2 of 1 Date 11-17-03